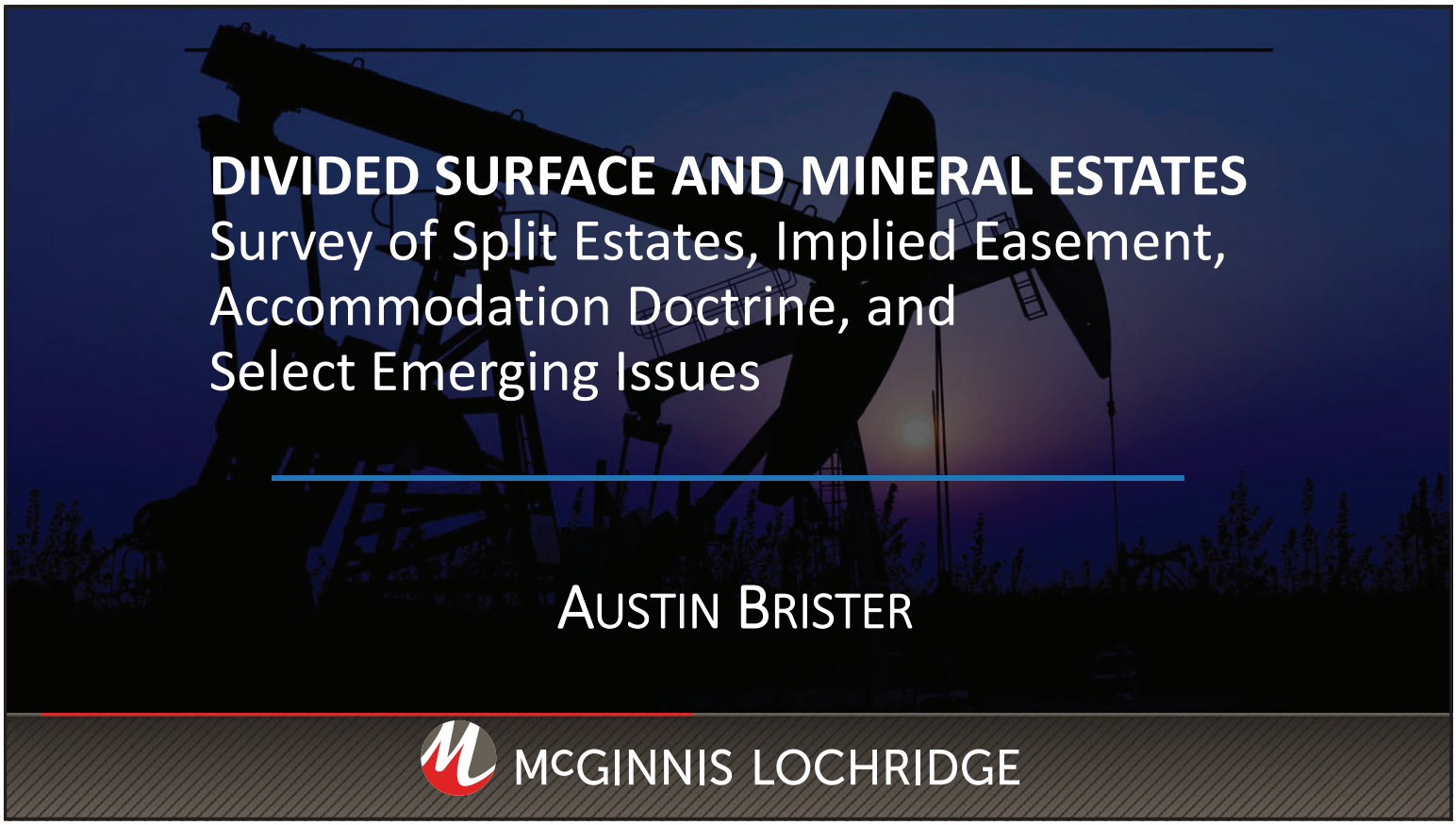

DIVIDED SURFACE AND MINERAL ESTATES

Survey of Split Estates, Implied Easement, Accommodation Doctrine, and Select Emerging Issues

AUSTIN BRISTER

McGINNIS LOCHRIDGE

Disclaimer

- This information contained within these slides and the live presentation are provided for informational purposes only. These slides were intended to be read only in conjunction with the live presentation, and these slides *do not* contain all of the information that was presented in conjunction with these slides at the live presentation. Neither these slides nor the live presentation shall constitute legal advice, nor do they create an attorney-client relationship. The author, presenter, and McGinnis Lochridge, do not warrant this information for any purpose. The law referenced in these slides may have changed or could be affected by case law developments. These slides and the live presentation are not intended to be comprehensive, but merely an overview for a 1-hour presentation. Various exceptions and limitations that are not included may apply in certain cases. **Do not rely on this presentation or your interpretation of same for any purpose**. If you have a legal question, or if you are in need of legal advice or representation, you should consult with a properly licensed lawyer of your choosing.

Overview

- Definition of Estates
- Implied Easement
- Emerging Issues

Severed Estates

- Early theory
- Modern theory

Defining Scope of the Estates

Issue: "oil, gas, and **other minerals**"

Surface Destruction Test (Early Texas)

- **Test**: intent-based, balancing test:
  - proximity to surface
  - Whether any reasonable extraction = "substantial" destruction
- **Severances prior to June 8, 1983**

UT LAW CLE THE UNIVERSITY OF TEXAS TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Divided Surface and Mineral Estates

Also available as part of the eCourse
Answer Bar: Oil, Gas and Energy Agreements and Contracting Essentials

First appeared as part of the conference materials for the
2022 Fundamentals of Oil, Gas and Mineral Law session
"Emerging and Re-Emerging Issues in the Use of Surface for Oil and Gas Operations"